

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Chris Kovanes, Programs Administrator, 797-1102

**SUBJECT:** Ordinance

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATIONS SERVICES AND INCREASING THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES; PROVIDING FOR ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:** This Ordinance is the second part of a lock-step process in which the Town of Davie adheres to the Florida Communications Services Tax Simplification Law, which will be in effect October 1, 2001. The first step was to reach compliance of the law is to establish an Ordinance that clearly states all new telecommunication companies seeking to utilize the Town of Davie rights-of-way, engage with one set agreement based upon the pending Ordinance. This was completed back in January, 2001 via an Ordinance.

This second step clearly defines all revenues will be collected through the Department of Revenue which will keep 1% of all funds collected for administrative services rendered. Under section 202.20(1) and (2) in Florida Statutes, a limit of \$100 can be the maximum permit fee allowed if a municipality would choose to still collect revenues and not allow the Department of Revenue to do so. Our current fee is \$2,500 in which the Town collects. The \$2,500 permit fee helped minus out overall occurred cost to the Town such as time involved from the Engineering staff, Planning staff and Public Works staff examining the permit. Therefore, if the Town would choose to continue to collect a permit fee of \$100, the Town would loose money. Finance Director, Chris Wallace, Town Attorney, Monroe Kiar, has examined this proposed Ordinance from the League of Cities and agreed it is in the Town's best interest to allow the Department of Revenue to collect all revenues from telecommunication companies.

The Town of Davie will still receive funds from these telecommunication companies via The Department of Revenue. The Department of Revenue has a formula with built in specifics for justification.

**PREVIOUS ACTIONS:** Passed first leg of a three-part part process to comply with Tax Simplification Law effective October 1, 2001.

**CONCURRENCES:** Tax Simplification Law, October 1, 2001

**FISCAL IMPACT:** Department of Revenue will collect funds and keep 1% for their administrative services.

**RECOMMENDATION(S):** Motion to approve Ordinance

**Attachment(s):**

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATIONS SERVICES AND INCREASING THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES; PROVIDING FOR ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 337.401(3)(c)1., Florida Statutes (2000), required each municipality to make an election regarding the payment of permit fees by providers of communications services and further requires each municipality to inform the Department of Revenue of the election by certified mail by July 1, 2001; and

WHEREAS, a municipality may require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services, a municipality that elects to exercise its authority to require and collect permit fees will have an automatic reduction in the rate of the local communications services tax for the municipality, as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by a rate of 0.12%; and

WHEREAS, alternatively a municipality may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. If the municipality elects not to require and collect permit fees, the total rate for the local communications services tax as computed under section 202.20(1) and 92), Florida Statutes (2000), as amended, for that municipality may be increased by ordinance by an amount not to exceed a rate of 0.12%; and

WHEREAS, section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature further amends section 337.401(3)(c)1., Florida Statutes (2000), to state that the Department of Revenue must be informed of a municipality's election by certified mail postmarked on or before July 16, 2001; and

of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services, the total rate for the local communications services tax as computed under section 202.20(1) and (2). Florida Statutes (2000), as amended, for that municipality may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12%. The bill further provides if a municipality elects to increase its rate effective October 1, 2001, the municipality shall inform the Department of Revenue of such increased rate by certified mail postmarked on or before July 16, 2001; and

WHEREAS, section 337.401(3)(c)1., Florida Statutes (2000), further provides that if a municipality does not make an election and notify the Department of Revenue, it is presumed that the municipality elects not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services, and such municipality will be authorized to increase its tax rate by an amount not to exceed a rate of 0.12%; and

WHEREAS, whatever election the municipality makes, such election shall take effect on October 1, 2001.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

#### SECTION 1. Intent

It is the intent of the Town of Davie to make an election under section 337.401(3)(c)1., Florida Statutes (2000), as amended by section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, regarding the Town of Davie's decision on whether to require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services.

#### SECTION 2. Election Not to Require and Collect Permit Fees.

The Town of Davie elects not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. As provided in section 337.401(3)(c)1., Florida Statutes (2000), this election shall take effect October 1, 2001.

#### SECTION 3. Election to Increase Local Communications Services Tax.

Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, the Town of Davie elects to increase its total rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by an amount of 0.12%, and this election shall take effect October 1, 2001.

SECTION 4. Notice to the Department of Revenue.

The Town of Davie directs that notice of the above elections be provided to the Department of Revenue by certified mail by July 16, 2001, as provided in section 34. Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature.

SECTION 5. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Effective Date.

The effective date of this Ordinance shall be immediately upon its passage by the Town of Davie.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

MONROE D. KIAR  
TOWN ATTORNEY  
TOWN OF DAVIE  
6191 SW 45<sup>th</sup> Street, Suite 6151A  
Davie, Florida 33314  
(954) 584-9770

**MEMORANDUM**

DATE: June 15, 2001  
TO: Chris Kovanes, Programs Administrator  
CC:  
FROM: Monroe D. Kiar  
RE: Control Number 010604  
Municipal Ordinance for election not to require and collect permit fees from providers of communications services that use Town's roads or rights-of-way for the provision of communications services

This will confirm the fact that I have reviewed the proposed Ordinance for an election not to require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provisions of communications services and to elect to increase the local communications services tax, as well as your Town Council Agenda Report. Both appear to be in acceptable form.

MDK/gmv